

REMARKS

Applicants request reconsideration of the above-identified application in light of the amendments and remarks described herein. Claims 16-21 have been amended. New Claim 28 has been added. Thus, Claims 16-21 and 28 are pending in this application.

Claims 16-21 have been rejected in an Office Action dated January 11, 2008, under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,480,401, issued to Navas (hereinafter "Navas"). Applicants respectfully submit that all claims are now in condition for allowance.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 16-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Navas. Applicants respectfully traverse the rejection of these claims. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d. 1051, 1053 (Fed. Cir. 1987). For at least the following reasons, applicants respectfully assert that the presently recited claims are neither anticipated nor rendered obvious by Navas.

Independent Claim 16, from which Claims 17-21 depend, has been amended to recite a bone fracture fixation device for fixating a fractured bone having first and second bone segments that interface at a bone fracture, comprising:

a support member, wherein the support member includes at least one slot extending through the side of the support member;

first and second support shafts extending through the at least one slot of the support member, the at least one slot and the support shafts being configured and dimensioned to allow movement of the support shafts in a longitudinal direction with respect to the support member,

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

wherein the first and second support shafts are configured to be affixed to first and second bone segments, respectively; and

a coupling assembly positioned along the support member, wherein the coupling assembly is configured and arranged to 1) releasably couple the support shafts to the support member at a selectable separation distance; 2) apply a force against the support shafts; and 3) permit controlled movement of the first support shaft with respect to the second support shaft.

Navas is directed to a Extra-Discal Inter-Vertebral Prosthesis. The prosthesis functions by controlling the variations of the inter-vertebral distance by means of a double damper. In use, two pedicular screws 6 or 80 or 80' are anchored to two adjacent vertebrae whose common disc is damaged. Due to the damper, the relative movement of the two vertebrae is dampened in extension and in bending. See Figures 3 and 4, and Col. 5, lines 4-8.

As recited above, Claim 1 is directed to a bone fracture fixation device. The bone fracture fixation device secures and maintains a bone fracture or fractures in proper alignment during the healing process, as well as permitting slight movement or micro-motion therebetween to promote healing. Trials have been conducted with embodiments of the fixation device, and results have shown a decrease in healing time of approximately 25-40% over prior art devices. Applicants attribute such improvement to the configuration of the bone fracture fixation device, including the coupling assembly that allows slight movement or micro-motion at the bone fracture interface caused in part by external forces applied to the bone segments or the fixation device.

The bone fracture fixation device of Claim 16 requires first and second support shafts extending through the at least one slot of the support member. The at least one slot and the support shafts are configured and dimensioned to allow movement of the support shafts in a longitudinal direction with respect to the support member, wherein the first and second support shafts are configured for affixation to first and second bone segments, respectively.

Contrastingly, Navas fails to disclose a bone fracture fixation device, and more particularly, a bone fracture fixation device whose support shafts (indicated as element 5 of Navas by the Office Action) are configured for affixation to first and second bone segments that interface at a bone fracture. Instead, Navas discloses a prosthesis that attaches to two adjacent vertebrae whose common disc is damaged. Nowhere in Navas does it disclose the use of the prosthesis to treat a bone fracture.

It is clear from the foregoing that Navas fails to disclose each and every element of Claim 16. Thus, applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection to Claim 16. Further, applicants respectfully request withdrawal of the pending rejections of Claims 17-21, which depend from allowable Claim 16.

New Claim 28

New Claim 28 has been added to particularly point out and distinctly claim the novel aspects of the present invention. Applicants respectfully assert that the newly submitted claim recites combinations of features neither taught nor rendered obvious by the prior art. Accordingly, applicants respectfully submit that new Claim 28 is in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully submit that the present application is in condition for allowance. The Examiner is invited to contact the undersigned with any remaining questions or concerns.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

A handwritten signature in black ink, appearing to read 'Brandon C. Stallman', is written over the printed name.

Brandon C. Stallman
Registration No. 46,468
Direct Dial No. 206.695.1708

BCS:jlb

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100